

(2020) 03 J&K CK 0024
In the Jammu And Kashmir High Court
Case No : Contempt Petition No. 52 Of 2017

Avtar Singh And Others

APPELLANT

Vs

Sanji Tlvir And Others

RESPONDENT

Date of Decision : 16-03-2020

Acts Referred:

Citation : (2020) 03 J&K CK 0024

Hon'ble Judges : Sanjeev Kumar, J

Bench : Single Bench

Advocate : Surinder Kour, Manpreet Kour, Vishal Sharma

Final Decision : Dismissed

Judgement

1. This petition has been filed for initiating contempt proceedings against the respondents for wilful defiance and disobedience of the judgment dated 22.11.2013, passed by this Court in SWP No. 2510/2013 titled Avtar Singh and others Vs. Union of India and others, the operative portion whereof reads as under:-

"In view of the submissions made by learned counsel for the parties, this petition is taken up for final disposal and is disposed of with a direction to the respondents to accord consideration to the claim of the petitioners having due regard to the judgment passed by the Division Bench in aforesaid LPA and pass appropriate consideration order within a period of three months from the date a copy of this order is made available to them along with copy of judgment of Division bench referred to hereinabove."

2. In response, the respondents have filed the compliance report and have also placed on record the consideration order dated 29.10.2015, issued by the Headquarters, Commander Works Engineer Mamun (Pathankot), whereby the case of the petitioners has been considered and the same has been rejected being not tenable in law.

3. The petitioners have filed the re-joinder to the compliance report and have stated that in a similar case, i.e. SWP No. 2586/2013, the respondents have complied with the judgment and have given the benefit to the petitioners-Vijay Singh and others.

4. Heard learned counsel for the parties and perused the record.

5. As is apparent from the plain reading of the operative portion of the judgment dated 22.11.2013 passed in the case of the petitioners the writ Court, without returning any finding with regard to entitlement of the petitioners, has disposed of the petition on request of learned counsel for the petitioners with a direction to the respondents to accord consideration to the claim of the petitioners having regard to the judgment passed in LPA(SW) No. 161/2005 and pass appropriate orders within a period of three weeks.

6. The respondents have, thus, been given complete latitude to pass order as the respondents deem appropriate. The respondents have considered the case of the petitioners threadbare and have passed a speaking order dated 29.10.2015. The plea of the petitioners that since the similar judgment passed in the case of the Vijay Singh and others has been implemented by the respondents and, therefore, the respondents cannot take a contrary stand in the instant contempt petition is noticed to be rejected only. The judgment passed in the case of the petitioners does not make any reference to the judgment passed in the case of Vijay Singh and others.

7. In view of the aforesaid, this Court is of the considered view that the speaking order passed by the respondents cannot be construed to be in violation of the judgment dated 22.11.2013, which would call for initiating contempt proceedings against the respondents. The consideration order, if as per learned counsel for the petitioners, is not in consonance with law, the petitioners have the remedy to challenge the same but this contempt petition would not lie as this Court does not find any wilful or deliberate disobedience on the part of the respondents.

8. For the foregoing reasons, I find no merit in this contempt petition and the same is, accordingly, dismissed.

9. It shall, however, be open to the petitioners to work out their remedies against the speaking order in accordance with law.